

REMARKS

Reconsideration of the present application is respectfully requested.

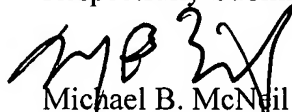
Claims 1, 3-5, 7-10, 15 and 17 stand rejected under 35 USC §102(b) over Maruta et al. In order to better distinguish Applicant's claimed invention from the subject matter taught by Maruta et al., Applicant has amended the independent claims to make it clear that the variable displacement motor is fluidly connected between the first and second volumes of the hydraulic cylinder. It is this feature of the invention that allows, for instance, energy to be extracted when a raised work implement is lowered, and the fluid displaced from the moving plunger within the hydraulic cylinder is displaced to the volume on the opposite side of that plunger via the variable displacement motor. There should be no dispute that Maruta et al. fails to show or suggest any such structure. Therefore, Applicants respectfully request that the outstanding §102 rejections be withdrawn.

Claims 2, 6, 11-14 and 16 stand rejected under 35 USC §103 over Maruta et al. in view of Japan 2002-195218. As stated above, there should be no dispute that Maruta et al. fails to disclose the base invention of the independent claims. Since the Japanese reference fails to remedy these defects, the cited references, even when combined, fail to show all the features of the claimed invention. Therefore, Applicants respectfully request that the outstanding §103 rejections be withdrawn.

Since the Patent and Trademark Office has already accepted amendments of the type presented above in a similar application, namely serial no. 10/713,667, filed November 14, 2003, Applicants respectfully request that this application be treated in a consistent manner. In other words, Applicants again respectfully request that all of the outstanding rejections based at least in part on Maruta et al. be withdrawn.

This application is now believed to be in condition for allowance of claims 1-17. However, if the Examiner believes that some minor additional clarification would put this application in even better condition for allowance, the Examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully Submitted,


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